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10/057,016	01/25/2002	Theodore Turnasella	54530-00002	3598

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EXAMINER

CHEN, TE Y

ART UNIT	PAPER NUMBER
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2161

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/057,016

Applicant(s)

TURNASELLA, THEODORE

Examiner

Susan Y. Chen

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/26/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response To Amendment

This office action is in response to the amendment filed on Jan. 26, 2007.

Claims 1-30 are pending for examination; claims 1, 9, 12, 20 and 28-30 have been amended; claim 31 has been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-11 and 20-30, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claims 1 and 20, the claimed subject matters "utilizing at least one annual growth rate entered at the time of generating said report" are new, because it is not supported by the instant specification.

As to claim 2-11 and 21-30, these claims have the same defects as their base claim respectively, hence, are rejected for the same reason.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,741,993 issued to Zitaner et al. (hereinafter referred as '993) in view of U.S. Patent No. 6,401,079 issued to Kahn et al. (hereinafter referred as '079) and further in view of U.S. Patent No. 6,249,770 issued to Erwin et al. (hereinafter referred as '770).

As to claims 1, 12 and 20, the '993 patent discloses a system for providing survey data from members of a survey group via an internet [e.g., Abstract, Fig. (s) 1-4], comprising:

- a) a database for storing salary data [e.g., the unit 10, Fig. 1];
- b) a server [e.g., the Reward Workbench (60), Fig. 1] providing access to the Internet, wherein the server configured to:

- establishing a salary survey service [e.g., col. 5, lines 12-18, Fig. 2 and associated texts] and accepting salary data to the salary survey service [e.g., the 1st

Art Unit: 2161

step of Fig. 3 wherein the row data elements including participant's and salary data at shown in Fig. 4] ;

receiving designations from the participants indicating the particular participants to be includes in a survey group, wherein the designation includes geographical information [e.g., col. 6, lines 23-65];

storing the salary data received from the at least a portion of the participants in the database [e. g., the 4th step of Fig. 3];

grouping the plurality of participants into survey group by the portion of the plurality of participants [e.g., the 2nd step of Fig. 3];

generating a salary report for participants of the survey group using the stored data provided by the participants of the survey group [e.g., col. 6,lines 23-33]

providing access to the salary survey via the internet [e.g., Abstract, lines 8-10, the Data Network, Fig. 2].

The '993 patent did not specifically disclose aging salary data for at least a portion of stored salary data;

However, the '079 patent disclosed the claimed features "aging salary data for at least a portion of stored salary data" [e.g., the effective date, expiration date attributes of the Pay Scales table 435, the Pay Rate Types (430), etc. Fig. 4(b)].

Art Unit: 2161

The '993 and '079 patents are both in the same endeavor for efficiently reporting survey salary information via graphical interactive user interface [e.g., the Web unit 50, Fig. 2 of '993, the Fig(s). 18a - 18c of '079], thus, with the teachings of '993 and '079 in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to be motivated to modify the salary information of '993 system with aging attributes as taught by '079 patent, because by doing so, the combined system will be upgraded to provide more details information for the pay scale survey and calculation.

The combination of '993 and '079 did not specifically disclose utilizing at least one annual growth rate entered at the time of generating said report.

However, '770 patent disclosed the step to utilize at least one annual growth rate entered at the time of generating said report [e.g., col. 11, line 48 – col. 12, line 20, Fig. 23].

The combination of '993, '079 and '770 patents are in the same endeavor for efficiently reporting survey salary information [e.g., the Web unit 50, Fig. 2 of '993, the Fig(s). 18a - 18c of '079, Fig. 23 of '770], hence, with the teachings of '993, '079 and '770 in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to be motivated to modify the salary reporting information of the combined '993 and '079 system with the annual growth rate data as taught by '079 patent, because by doing so, the combined system will be upgraded to

utilizing at least one annual growth rate entered at the time of generating to forecast a more accurate aged pay scale survey report with the annual growth rate details.

As to claims 2, 13 and 21, except all the features recited in claim s 1, 12 and 20, the combined system of '993, '079 and '770 patents further discloses that the survey are group by at least one of the business organization or others [e.g., '993: col. 1, lines 14-22].

As to claims 3-6, 14-16 and 22-25, except all the features recited in claims 1, 12 and 20, the combined system of '993 '079 and '770 patents further discloses that the members including individuals, companies, trade associations, contributor and subscriber [e.g., '993: col. 1, lines 26-35].

As to claims 7-8 and 26-27, except all the features recited in claims 1, 12 and 20, the combined system of '993 '079 and '770 patents further discloses that the server is further configured to receive designations of the members to be included in the survey group and parameters to defining information to be presented by the survey [e.g., '993: the first three steps of Fig. 3; Figure 4 and associated texts].

As to claims 9-10, 17-18 and 28-29, except all the features recited in claims 1, 12 and 20, the combined system of '993 '079 and '770 patents further discloses that the

Art Unit: 2161

server is configured to provide access to the plurality members of the survey group [e.g., '993: the units 30, 32, 34, 36, Fig. 1].

As to claims 11, 19 and 30, except all the features recited in claims 1, 12 and 20, the combined system of '993 '079 and '770 patents further discloses that the salary data is related to job positions [e.g., '993: the Job_code, Position fields, Fig. 4].

Response to Arguments

Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should provide and link to the most specific page and line numbers of the disclosure where best support is found (see 35 U.S.C. 132).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mofiz APu can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2161

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Y Chen
Examiner
Art Unit 2161

February 5, 2007

[Handwritten signature]
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SPE, TC 2100